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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,975	01/25/2002	James Grey	5150-63600	3875
35690	7590	08/23/2004		
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398				EXAMINER NGUYEN BA, HOANG VU A
				ART UNIT 2122 PAPER NUMBER

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
AUG 27 2004
Technology Center 2100

Office Action Summary	Application No.	Applicant(s)	
	10/056,975	GREY ET AL.	
	Examiner Hoang-Vu A Nguyen-Ba	Art Unit 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 January 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/17/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This action is responsive to the application filed Jan 25, 2002.
2. The priority date considered for this application is Jan 25, 2002.
3. Claims 1-13 have been examined.

Drawings

4. The drawings are objected to because Figures 7B, 7C, 7D, 7F, 7G and 7H contain legends that are not legible because of a dark background.

Correction is required.

Claim Objections

5. Claims 2 and 11 are objected to because of the following informalities: a conjunction – and – should be added at the end of the limitation (line 5) that precedes the last limitation to signify that the test executive object includes all the claim elements listed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7 and 10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation “the object information” in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites a “memory medium for generating an Extensible Markup Language (XML) representation of a test executive object.” It is unclear how a memory medium can generate an XML representation of a test object. It is, however, commonly known in the art to design and manufacture a memory that can instead store program instruction code which is executable by a processor to generate the XML representation of the test executive object.

Correction is required.

Claim Rejections – 35 U.S.C. § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,
except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

9. Claims 1-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,505,342 to Hartmann et al. (“Hartmann”).

Claims 1 and 10

Hartmann discloses at least:

generating an XML representation for the test executive object in response to receiving the request (see at least 30:47-53).

Hartmann does not specifically disclose *receiving a request for an XML representation of the test executive object*. However, this step is deemed to be inherent to the Hartmann teaching as 30:45-47 shows that the Test Control Center – TCC – provides a user with means for running test cases interactively through a graphical user interface – GUI. Through this GUI, a user could request results to be outputted to XML-formatted files since this XML-formatted output is available in the TCC – 30:47-49.

Claims 2 and 11

The rejection of base claims 1 and 10 is incorporated. Hartmann further discloses *wherein the test executive object comprises one of:*

- a test executive step object (see at least 7:34-49);*
- a test executive sequence object (see at least 2:10-17; 21:19-47);*
- a test executive test result object (see at least 30:25-27);*
- a test executive type object (see at least 16:25-26; 23:56 - 24:13).*

Claim 3

The rejection of base claim 1 is incorporated. Hartmann does not specifically disclose *wherein said receiving the request for the XML representation of the test executive object comprises receiving an application programming interface (API) call for requesting an XML representation of the test executive object*. However, this step is deemed to be inherent to the Hartmann teaching as 30:45-47 shows that the Test Control Center – TCC – provides a user with means for running test cases interactively through a graphical user

interface – GUI. Without inherent calls to a result output module, test results in XML-formatted files (30:47-49) would not be possible.

Claim 4

The rejection of base claim 1 is incorporated. Hartmann does not specifically disclose:

wherein the test executive object includes a first method for requesting an XML representation of the test executive object;

wherein said receiving the request for the XML representation of the test executive object comprises receiving an invocation of the first method. However, these steps are deemed to be inherent to the Hartmann teaching as 30:45-47 shows that the Test Control Center – TCC – provides a user with means for running test cases interactively through a graphical user interface – GUI. Without inherent calls to a result output module, test results in XML-formatted files (30:47-49) would not be possible.

Claims 5 and 12

The rejection of base claims 1 and 10 is incorporated. Hartmann further discloses *wherein said generating the XML representation for the test executive object comprises generating one or more XML files specifying the test executive object* (see at least 30:45-53).

Claims 6 and 13

The rejection of base claims 1 and 10 is incorporated. Hartmann does not specifically disclose *wherein said generating the XML representation for the test executive object comprises generating sufficient XML information to enable an identical object to be reinstated in memory.* However, this step is deemed to be inherent to the Hartmann teaching as 30:45-47 shows that the Test Control Center – TCC – provides a user with means for

running test cases interactively through a graphical user interface – GUI. Without the claimed step, test results in XML-formatted files (30:47-49) would not be possible.

Claim 7

The rejection of base claim 1 is incorporated. Hartmann further discloses *wherein said generating the XML representation for the test executive object comprises generating XML information representing only a portion of the object information* (see at least 30:45-53).

Claim 8

The rejection of base claim 1 is incorporated. Hartmann further discloses *transforming the XML representation using an XSL stylesheet* (see at least 30:50-53).

Claim 9

The rejection of base claim 1 and intervening claim 8 is incorporated. further discloses *wherein said transforming the XML representation using an XSL stylesheet comprises creating a view of the test executive object* (see at least 30:50-53).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (703) 305-0103. The examiner can normally be reached on Tuesday-Friday, 6:00 to 16:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANTONY NGUYEN-BA
PRIMARY EXAMINER**

Art Unit 2122

August 17, 2004

Notice of References Cited		Application/Control No.	Applicant(s)/Patent Under Reexamination GREY ET AL.	
		Examiner Hoang-Vu A Nguyen-Ba	Art Unit 2122	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,505,342	01-2003	Hartmann et al.	717/104
*	B	US-2003/0093717 A1	05-2003	Mason, Carlton Keith	714/38
*	C	US-6,560,633	05-2003	Roberts et al.	709/202
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Form PPO-1449 (modified) List of Patents and Publications For Applicant's Information Disclosure Statement (Use several sheets if necessary)		ATTY. DOCKET NO: 5150-63600	SERIAL NO: 10/056,975				
		RECEIVED JAN 21 2003 Technology Center 2100					
		APPLICANT: Grey et al.					
		FILING DATE: January 25, 2002	GROUP: 2184				
U.S. PATENT DOCUMENTS							
EXAM. INITIALS	REF. DES	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
<i>Har</i>	A1	6,397,378	05/28/2002	Grey et al.			
	A2	6,023,773	02/08/2000	O'Donnell et al.			
	A3	6,002,868	12/14/1999	Jenkins et al.			
	A4	6,336,088	01/01/2002	Bauman et al.			
	A5	5,261,097	11/09/1993	Saxon			
FOREIGN PATENT DOCUMENTS							
EXAM. INITIALS	REF. DES	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION YES/NO
OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)							
<i>Har</i>	A6	National Instruments Corporation, LabVIEW, "Test Executive Reference Manual," August 1997.					
	A7	Johnson, Laura, "Test and Measurement – Understanding Test Executives," Webpage www.testandmeasurement.com/content/news/ , October 16, 2000, pages 1-9.					
EXAMINER: <i>Kraigson Anthony Nguyen Ba</i>			DATE CONSIDERED: 8/11/04				
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the patent owner.							